

8

PATENT
AMENDMENTREMARKS

In a telephonic interview with the Examiner following the amendment filed March 19 herein, the Examiner indicated that the use of the word "optionally" in claim 1 was objectionable, in that it created uncertainty as to whether the step was required.

Applicant has accordingly amended claim 1 to remove the word "optionally" in the recited step of enabling the user to pledge a contribution. It is believed that this amendment resolves any indefiniteness in claim 1.

The word optionally had been added previously simply to repeat that the act of pledging was optional (voluntary) with the user, and he could either exercise the option or not. This is consistent with the Specification and common usage. However, as explained by the Examiner, the word "optionally" might also be interpreted to make the entire recited step optional, hence it is unclear whether it is part of the claim. In order to resolve this problem, applicant has removed the word "optionally".

The recited step of "enabling a user to pledge a contribution" requires that the option to pledge a contribution be presented to the user, but that the pledge itself (whether the user decides to exercise the option) is a voluntary act on the part of the user. As described in the Specification and consistent with common usage, pledging a contribution is understood to be voluntary. The entire thrust of the Specification is that the user is presented with an option to make a pledge, and the user may elect to exercise the option or not (hence the pledge is voluntary). For example, the following passages support the voluntary nature of the pledge:

- (a) Page 3, lines 7-13, page 11, lines 20-27, and elsewhere, refer to "donating" and "donations". The word "donate" implies something done voluntarily.

Docket No.: ROC920000267US1
Serial No.: 09/781,010

9

PATENT
AMENDMENT

- (b) Page 9, line 31 - page 10, line 4, discloses that players are prompted with "... options for making charitable contributions..." The act of prompting is not an option, but the options are for making the contributions. If these are "options", then the player does not necessarily have to exercise the options, hence the act of exercising the option (making the contribution) is necessarily voluntary.
- (c) The Specification refers numerous times to "charitable contributions", and discloses reporting to the IRS (p. 13, line 28-31). Clearly, these contributions are expected to be deductible under the Internal Revenue Code, implying voluntary contributions.
- (d) One of the embodiments described includes *increasing* the players odds of winning based on the amount of the pledge (see, e.g., p. 12, lines 6-22). These odds are necessarily increased from some unstated original value associated with not making a pledge. If this is the case, the implication is that one could play the game at the original odds value, i.e., by not making the pledge. Hence the pledge is voluntary.

Accordingly, the act of "pledging a contribution" is inherently a voluntary act of the person making the pledge, a fact which distinguishes claim 1 over the cited art, for the reasons explained in the previous amendment.

Claim 28 has further been amended to correct inadvertent omissions which created a lack of antecedent basis ("output device").

Docket No.: ROC920000267US1
Serial No.: 09/781,010

10

PATENT
AMENDMENT

In view of the foregoing, applicant submits that the claims are now in condition for allowance and respectfully requests reconsideration and allowance of all claims. In addition, the Examiner is encouraged to contact applicant's attorney by telephone if there are outstanding issues left to be resolved to place this case in condition for allowance.

Respectfully submitted,

GORDON J SMITH

By: 

Roy W. Truelson

Registration No. 34,265

Telephone: (507) 289-6256

Docket No.: ROC920000267US1
Serial No.: 09/781,010